

# **JOURNAL OF THE HOUSE**

## **EIGHTY-EIGHTH SESSION**

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FOURTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Friday, January 11, 2013

The House convened at 12:30 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Student Rabbi Brian Nelson, followed by the Pledge of Allegiance led by House page James Geppert.

Roll Call: All members present except Reps. Carson, Conzet, Killer, Mickelson, Novstrup, and Schrempp who were excused.

### **APPROVAL OF THE JOURNAL**

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the third day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Brian G. Gosch, Chair

Which motion prevailed.

**REPORTS OF STANDING COMMITTEES**

MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1036 and 1063 and returns the same with the recommendation that said bills do pass.

Also MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1012 and returns the same with the recommendation that said bill be amended as follows:

1012oa

On page 1, line 7, of the printed bill, remove the overstrikes from "if".

On page 1, delete lines 8 and 9, and insert:

"

~~—(1)—~~ The the person was a South Dakota resident at the time of high school graduation and lived with a parent or legal guardian who was also a South Dakota resident;".

And that as so amended said bill do pass.

Respectfully submitted,  
David Lust, Chair

Also MR. SPEAKER:

The Committee on Judiciary respectfully reports that it has had under consideration HB 1008 and 1009 and returns the same with the recommendation that said bills do pass.

Respectfully submitted,  
Brian G. Gosch, Chair

**MESSAGES FROM THE SENATE**

MR. SPEAKER:

I have the honor to inform your honorable body that the Senate has adopted the report of the Joint-Select Committee relative to the Joint Rules for the Eighty-eighth Legislative Session.

1 Also MR. SPEAKER:

2 I have the honor to inform your honorable body that the Senate has adopted the report of  
3 the Joint-Select Committee relative to arranging for legislative days for the members, officers,  
4 and employees of the House and Senate.

5 Also MR. SPEAKER:

6 I have the honor to inform your honorable body that the Senate has adopted the report of  
7 the Joint-Select Committee relative to making arrangements for a memorial recognition of  
8 deceased former members of the House and Senate.

9 Also MR. SPEAKER:

10 I have the honor to inform your honorable body that the Senate has adopted the report of  
11 the Joint-Select Committee relative to setting the compensation schedule for the elective and  
12 appointive officers and members of the Eighty-eighth Legislative Session.

13 Also MR. SPEAKER:

14 I have the honor to inform your honorable body that the Senate has adopted the report of  
15 the Joint-Select Committee relative to making arrangements for the distribution of the official  
16 directory, Senate and House journals, and bills and other legislative printing for the two houses  
17 and the state offices.

18 Also MR. SPEAKER:

19 I have the honor to inform your honorable body that the Senate has adopted the report of  
20 the Joint-Select Committee relative to securing chaplains for the Eighty-eighth Legislative  
21 Session.

22 Respectfully submitted,  
23 Jeannette Schipper, Secretary

24 Rep. Steele moved that the House do now adjourn, which motion prevailed and at  
25 12:42 p.m. the House adjourned.

26 Arlene Kvislen, Chief Clerk

Pursuant to the Joint-Select Committee Report found on page 17 of the House Journal, the following is Governor Dennis Daugaard's State of the State Address:

STATE OF THE STATE 2013  
JANUARY 8, 2013  
PIERRE, SOUTH DAKOTA  
GOVERNOR DENNIS DAUGAARD

Thank you. Now those of you keeping track of how long my speech will be - it has just now started and does not include the Lt. Governor's generous introductory remarks about my wife as I wrote them. I want you to know that this will be the shortest State of State speech that I have given.

Thank you. It's good to have you back. I want to welcome you all to Pierre.

We are all here because South Dakota's voters - our friends and our neighbors - sent us here with their votes. We are here to represent them. They elected us because they believe that we share their values and their priorities for South Dakota.

You and I - the Legislature and the Governor - are stewards of this state government.

Stewardship is defined as "careful and responsible management of something that is entrusted to one." The people of South Dakota have entrusted their state government to us, and they are counting on us to be good stewards. This isn't our state government. It isn't our Capitol building. It isn't our \$4 billion budget. It belongs to all the people of South Dakota. And as our state seal says, "Under God, the People rule."

The People have entrusted this state government to our care, and we must operate it in their best interests, by applying the values that they hold. This past election, our voters told us that they value structurally sound budget processes, a fiscal management, and a balanced budget. They also told us they don't want higher taxes, even to fund important government services that they support, and we know they support.

As good stewards, we need to act "carefully and responsibly" to build a stronger South Dakota. That means we must think of the long term, not just the short term, and make decisions for the next generation.

Let me open today with a story.

Our State Capitol building, where we are today, is 103 years old. When plans for the construction of this building were being made, our state leaders began with a frugal decision. Rather than design a new capitol from scratch, they hired the same Minneapolis firm which had just designed the Montana State Capitol. We saved thousands of dollars by adapting the Montana State Capitol architectural drawings to our own. In fact, today, one book calls our capitol and their capitol "fraternal twins."

Speed ahead a few years. In Montana, the capitol rotunda floor, which is in part comprised of glass prisms, had been at risk to collapse and had to be completely replaced. Of course, our

1 Bureau of Administration here in South Dakota took great interest in this - because our capitol  
2 rotunda has that same kind of floor with the same kind of glass prisms. An analysis showed that  
3 our floor was inadequately reinforced as well.

4 We took action last year, and if you were here last summer you might have seen some of the  
5 construction taking place on the first floor. State work crews added quarter-inch thick steel  
6 plates to the underside of the floor panels, with laser cut-outs for each of the glass prisms.  
7 These plates were welded to reinforced steel beams. The new underside of the floor was painted  
8 and the plaster was recast to match the former appearance of the floor.

9 That floor, which could have become a risk and a liability, doesn't look much different now than  
10 it did a year ago, or even 100 years ago. But the floor is structurally sound now for the next  
11 100 years.

12 That is good stewardship. It isn't as attention-getting as a new program, but instead of initiating  
13 something new that we can't afford, or can't maintain, we are taking care of what we already  
14 have. We are being good stewards. We are reinforcing the floor.

15 Of course, the best example of good stewardship is what we did together two years ago to  
16 achieve a structurally balanced budget. I am strongly committed to maintaining that structural  
17 balance. Some states are still struggling to achieve balance. Last Friday, the National  
18 Association of State Budget Officers sent out its weekly news review. Let me give you some of  
19 the bad news that other states are still facing:

20 Connecticut acted three weeks ago to eliminate their FY13 budget deficit of \$252 million. Their  
21 tax revenues are coming in lower than the overly optimistic budget revenue estimates which  
22 they had adopted. They were forced to cut education, cut tourism, and cut social services. They  
23 are also borrowing money and using some of their reserves. That's right now - that is this year's  
24 budget.

25 Delaware's FY13 budget is at least \$50 million short. Delaware is a state with a population  
26 about like ours. Temporary tax increases, which were imposed in response to the recession, were  
27 supposed to expire starting next year. Now, they will probably have to be extended.

28 In Georgia, tax collections declined by one percent last month - ours went up - theirs went  
29 down, and FY13 revenues in Georgia are coming in below adopted revenue estimates. State  
30 agencies have been instructed to cut three percent from their appropriated budgets right now.

31 Louisiana will need to make \$165 million in mid-year budget cuts to balance this year's budget.

32 Maine's governor ordered \$35 million in mid-year spending cuts to balance this year's budget.

33 Massachusetts' current budget gap is \$540 million. Minnesota's deficit is \$1.1 billion.  
34 Mississippi is short. New Jersey is short. So are New York and Vermont. Illinois, Kentucky,  
35 and others face enormous pension shortfalls. In Kentucky alone, if their revenue grows by three  
36 percent, every bit of that growth will be consumed by the pension demands - nothing for  
37 education, nothing for Medicaid, nothing for other state services.

1 Among the states there are bright spots, and South Dakota is a comparative bright spot, because  
2 we have contained our spending and adopted conservative revenue estimates. I want to thank  
3 you all for doing this. I want to thank everyone across our entire state for the sacrifice necessary  
4 to bring our expenditures down to the revenues we were receiving. Thank you all for your  
5 selflessness.

6 Our current year's budget is running better than we projected, providing funds for one-time  
7 projects in FY13. As other states are looking where to cut, we can look where shall we spend  
8 these dollars. As I discussed last month, I believe that good stewardship would employ one-time  
9 funds to improve our structural soundness by eliminating a liability, building or improving an  
10 asset, securing an asset, or endowing a program for the future. I've offered ideas for some of that  
11 one-time spending, and I'm looking forward to hearing some of your ideas as well.

12 Over the past two years, our state agencies have undertaken dozens of projects and initiatives  
13 to "reinforce the floor" of state government and to be good stewards of our tax dollars. I'd like  
14 to share a few examples of those:

15 As we discussed last month, the Department of Social Services and the Bureau of  
16 Administration have been working together on a plan to deal with the dilapidated buildings at  
17 the Human Services Center in Yankton. These buildings have fallen into disrepair and become  
18 a liability to the state. If you agree, work will begin this year to restore some of the most  
19 historically significant structures, while others will be demolished. It is long past the time for  
20 us to be good stewards of this property.

21 Our Department of Agriculture's investment of \$6 million to fight the mountain pine beetle is  
22 paying off already, as we have slowed the spread of this epidemic. Our efforts have been  
23 particularly successful in Custer State Park, where state crews, inmates, and contractors have  
24 removed more than 100,000 pine beetle-infested trees. If you agree, we will invest still another  
25 \$2 million next year to partner with counties on further beetle suppression efforts throughout  
26 the Black Hills.

27 In May, the Department of Labor and Regulation instituted a new program to help those on  
28 unemployment for more than 12 weeks to find a job quickly. The program requires participants  
29 to be actively searching for work, honing old skills or learning new ones, and taking advantage  
30 of intensive personal services with local staff. Since the program began, three out of four  
31 participants are off the unemployment rolls.

32 Continued tourism promotion has brought record numbers of visitors to South Dakota and has  
33 grown this important industry. That success is due, in no small part, to the tourism tax that the  
34 industry imposed on itself several years ago to fund promotion efforts. Much of this tax is paid  
35 by visitors from out-of-state, and I strongly support the industry's effort this year to make that  
36 tax permanent.

37 Our Department of Health continues to be a national leader in promoting the importance of  
38 immunizations. South Dakota consistently has among the highest immunization rates in the  
39 nation for children entering kindergarten, and for the past two years, we have led the nation in  
40 overall flu vaccination rates.

1 The Department of Education and the Board of Regents are working together to redesign  
2 remediation courses so that high school students who need help can complete remediation  
3 before they enter college. Under the old system, incoming college students spent time and  
4 money during their first semester on remediation classes, and that setback led to dropouts. The  
5 new system uses the ACT Test to identify students while they are still in high school, and then  
6 offers them a shorter and more targeted remedial class, so they are ready when they enter  
7 college.

8 The Department of Environment and Natural Resources has been working. They have continued  
9 to be a good steward of our environment, making South Dakota only one of seven states in the  
10 nation to meet all federal air quality standards and one of only a few states implementing all  
11 National Primary Drinking Water Standards. Our air and water is clean.

12 The Department of Transportation has our state highway system's pavements and bridges in as  
13 good a shape as they've ever been, based on long-utilized criteria for evaluation of their  
14 condition.

15 We are working with the Education Enhancement Funding Corporation to refinance the state's  
16 tobacco bonds, which were issued ten years ago as a result of the Master Settlement Agreement  
17 with tobacco companies. The refinancing is a prudent step that will mean more money into the  
18 Education Enhancement Trust Fund, and also a larger distribution from that fund to support  
19 education in South Dakota.

20 Speaking of the trust funds, I'm pleased that our voters approved Constitutional Amendment O,  
21 which protects the principal of the Cement Plant Trust Fund and makes it structurally sound for  
22 future generations.

23 The Department of Social Services has been recognized by the federal government as being the  
24 best in the nation in Medicaid administration accuracy. More than any other state, we protect  
25 against fraudulent claims, and we make accurate eligibility determinations. The Department of  
26 Social Services has also cut wait times for in-patient substance abuse treatment down from  
27 30 days to 2 days. The department's implementation of the findings of last year's Medicaid  
28 Solutions Workgroup is already saving the state \$500,000 a year.

29 Our Department of Corrections is doing good work. It has achieved Level 4 certification by the  
30 Council of Juvenile Correctional Administrators. In 2011, we were the first state in the nation  
31 to do this, and last year we maintained this certification for a second year. I have required our  
32 juvenile facilities to be certified by these national, performance-based measures, and I'm proud  
33 that DOC has reached this high standard.

34 Our Department of Veterans Affairs this year will begin construction of a new veterans' home  
35 in Hot Springs, including energy efficient construction and a wood-chip boiler. As the "greatest  
36 generation" of veterans from World War II and the Korean War are replaced by Vietnam-era  
37 veterans entering their retirement years, we have a new generation of veterans returning from  
38 the frontlines. Now, more than ever, we need a state veterans' home that can serve our state's  
39 veterans in the decades to come.

1 Last year, I had the opportunity to join a Department of Defense trip to Kuwait and Afghanistan  
2 to visit South Dakota's troops. Seeing the bleak landscape of Afghanistan and the extreme desert  
3 conditions made me appreciate even more the sacrifice that every member of our military makes  
4 for our nation. That's why I'm proud that the Department helped veterans obtain over  
5 \$110 million in benefits last year.

6 Let's take a moment now to thank our veterans for all they have done for us. All veterans, all  
7 current and former service members of regular armed forces, National Guard and Reserve,  
8 please stand and be recognized.

9 I also want to update you on several ongoing efforts that began sometime during the past couple  
10 of years.

11 The Lt. Governor made mention of Linda's Infant Mortality Task Force. Two years ago, I  
12 announced an effort to reduce infant mortality in South Dakota, led by Linda and the  
13 Department of Health. Following up on one of the task force's key recommendations, the state  
14 has distributed more than 500 safe sleep kits to families who do not have a safe place for their  
15 babies to sleep.

16 Last year, I also proposed the South Dakota Workforce Initiative - SD WINS - and I was pleased  
17 that the Legislature approved every aspect of that proposal. This package of 20 initiatives is  
18 focused on developing the qualified workforce that will underpin our economic growth over the  
19 next decade.

20 We have increased the state's capacity to train welders and machinists. I directed economic  
21 development grants to purchase machinery to establish a new welding program at Mitchell Tech,  
22 adding 18 new training slots this year. In addition, we funded the development of an innovative  
23 new distance learning program at Lake Area Tech to deliver online distance training in welding  
24 and precision machining. We have expanded the welding program at Mike Durfee State Prison  
25 in Springfield, to train 32 more inmates in this skilled trade.

26 I have also asked the Governor's Office of Economic Development to redirect some Community  
27 Development Block Grant dollars to workforce training activities. Since implementing this  
28 change, eight grants totaling over \$1 million have provided funds for training over 300 workers  
29 in jobs including certified nursing assistants, training for commercial driver licenses, and others.

30 Another aspect of SD WINS is improving the availability of health care providers in rural South  
31 Dakota. Access to health care is important to the quality of life in our rural areas.

32 Last session, you passed bills that are already making a difference. The Recruitment Assistance  
33 Program has placed physicians, physicians' assistants, nurse practitioners, and dentists in seven  
34 small communities. The Rural Health Facility Recruitment Assistance Program has helped place  
35 60 more health professionals in 35 communities. We are also beginning a program that will  
36 place third-year medical students in rural settings such as Milbank, Mobridge, Parkston, Platte,  
37 and Winner. In addition, the Primary Care Task Force met this year and a smaller oversight  
38 committee will continue to monitor implementation of these efforts. I want to stop and thank  
39 Senator Brown, Senator Sutton, Representative Hawley, and Representative Magstad for their  
40 participation on this important task force.



1 Last year, we also redoubled our efforts to market Dakota Roots, a successful program that  
2 Governor Rounds created to invite former South Dakotans back home to work. Through a  
3 focused campaign using social media, we had a record number of new job seekers enter the  
4 Dakota Roots program. Last year alone, this program brought 536 South Dakotans back home  
5 to take a job here.

6 We have also begun work on the New South Dakotans program, which partners with South  
7 Dakota companies to recruit skilled out-of-state workers into South Dakota. The program has  
8 gotten off to a slower start than I had hoped, and we have expended less than ten percent of the  
9 funds, but it is beginning to show results. So far, businesses from across South Dakota, 35 of  
10 them have enrolled in the program, listing over 250 job openings. They have successfully  
11 attracted 55 out-of-state workers who have moved to South Dakota, or are in the process of  
12 moving, to accept hard-to-fill positions that we couldn't fill after thirty days in South Dakota.  
13 I'm hopeful that as more businesses use the program, the success will grow.

14 Our workforce development efforts could not be more important, because South Dakota  
15 continues to have great success in attracting out-of-state business and growing in-state  
16 businesses. In fact, the Governor's Office of Economic Development aided 80 different  
17 companies that were expanding in South Dakota last year.

18 Almost a year ago, we announced the decision by Bel Brands to build a cheese manufacturing  
19 plant in Brookings. This is the largest value-added ag project in our state's recent history. Bel  
20 Brands is investing \$100 million in construction costs, which is well under way in Brookings  
21 and at full capacity, it will employ 400 South Dakotans.

22 We are seeing a resurgence of the financial services industry in Sioux Falls. Capital One added  
23 400 new jobs in 2012, and Twin City Federal created still another 200.

24 We are also welcoming new companies that will service the oil and gas sector in the west,  
25 including Pipeline Plastics in Belle Fourche and WL Plastics in Rapid City, with each company  
26 adding 40 jobs.

27 An expansion of Adams Thermal Systems in Canton retained 600 jobs and added another  
28 50 jobs. An expansion of Baldwin Filters in Yankton will add up to 70 jobs over the next three  
29 years.

30 It should be no surprise that South Dakota's economy continues to grow while other states  
31 struggle. The Small Business and Entrepreneurship Council puts South Dakota #1 on its  
32 Business Policy Index, based on 46 factors. The Dow Jones weekly newspaper, Barron's, named  
33 South Dakota the "Best Run" state in America for our sound financial management. Our state  
34 has ranked in the top three in categories such as lowest state and local tax burdens, best business  
35 tax climate, highest average credit ranking, and best state for young people.

36 And so I'm clear - I don't know what their definition of young people is, but I'm defining "young  
37 people" as anyone under 65.

38 One continuing challenge to our economic development effort is the Contractors Excise Tax.  
39 Although our tax burden overall is favorable, this tax imposes a unique cost, up-front, on new

1 construction investment. Over the past several years, we have tried several approaches to  
2 mitigate this problem, including the automatic refund program that expired at the end of last  
3 month, and the discretionary grant program that was rejected by the voters. I know there is still  
4 a concern about this tax, and about the adequacy of our state's economic development programs.  
5 I welcome a discussion with the Legislature this year about how we should move forward. I  
6 need your help and your ideas.

7 Another good example of our leaders working together has been in the area of oil and gas. This  
8 year I convened two work groups, and I know the Legislature did likewise. The first to explore  
9 our potential for oil development, and the second to examine the areas where preparation may  
10 be needed in response to development in South Dakota and in North Dakota. At the same time,  
11 the Legislature formed an interim committee to study potential legislation to deal with these  
12 important issues. Although our oil and gas production may not reach the level of our friends in  
13 North Dakota, the work of the Legislature, the Department of Environment and Natural  
14 Resources, and others will put South Dakota in a better position to capitalize on our potential.  
15 If we can't pull oil out of our ground, let's help North Dakota do so with services and products  
16 in South Dakota.

17 Another initiative I launched almost two years ago is the "Better Government" initiative - we  
18 all have our lingo. Better Government aims for less regulation, more openness, and more  
19 efficiency. This isn't glamorous, but it's important, and we've made progress this year.

20 Let's talk about less regulation. Conversely, the proliferation of laws and regulations. One  
21 hundred years ago this month, in 1913, Governor Robert S. Vessey stood right here where I am  
22 standing and gave his State of the State address. He said this as part of his State of the State  
23 address one hundred years ago:

24 "It is my conviction, and in it I am not alone, that the tendency of very many legislative bodies  
25 is toward too many rather than too few new laws and I again offer the oft-repeated statement that  
26 there is a demand for the reduction and curtailment of the amount of legislation biennially  
27 passed by the Legislature and placed among our laws."

28 Governor Vessey was right, and certainly the governor and the state government agencies also  
29 have a tendency toward more laws as well. But we must push back. That's why I'm proud that  
30 our Better Government Red Tape Review had another strong year, finding obsolete and  
31 unnecessary statutes and rules that can be eliminated. Last year, we eliminated 177 sections and  
32 over 26,000 words from the statutory code and the administrative rules. This year, we will  
33 propose eliminating 650 sections and more than 78,000 words. I want to applaud the folks at  
34 the Departments of Health, Transportation, Revenue, Environment and Natural Resources,  
35 Public Safety, Agriculture, and Human Services for their work this past year.

36 Better Government took our Red Tape Review a step further this year by conducting an  
37 exhaustive review of executive orders. Many executive orders are signed by governors without  
38 a sunset clause, and technically remain in force long after their purpose has been served. I will  
39 be rescinding over 100 executive orders, dating back as far as the administration of Governor  
40 Archie Gubbrud, and we are going to examine other executive orders as well.

1 The second aspect of Better Government is more openness. Open Government had a banner year  
2 in 2012 with the formation of the Open Government Task Force, which Attorney General  
3 Jackley and I convened this summer. Although there have been major changes toward more  
4 openness over the last decade, there is always room to improve. We are grateful for the  
5 participation of Senator Novstrup, and Representatives Bolin and Wismer on this work group,  
6 and I hope you will give the open government bills favorable consideration this session.

7 The third component of Better Government is the implementation of e-Government. You may  
8 have heard me say this in the past, but it bears repeating. In our digital age, state government's  
9 motto should be "online, not standing in line."

10 For example, the Department of Revenue has installed self-service terminals throughout the  
11 state to make it easier for citizens to renew their vehicle license tags. The Bureau of Human  
12 Resources has moved to an entirely electronic system for announcing job openings and  
13 accepting applications. Game, Fish, and Parks has released a mobile app that allows you to buy  
14 your hunting or fishing license, or reserve a camping site on your smartphone.

15 In the past year, the Bureau of Information and Telecommunications has worked with agencies  
16 to complete 22 different e-Government projects, and they have another 40 more in process.  
17 These efforts will make government more efficient and more accessible to our citizens. That is  
18 what good stewardship is about. We run state government efficiently to benefit the people we  
19 serve.

20 Another task force worked hard in 2012 on Criminal Justice. A major expense to our state is  
21 corrections, and I'd like to take a few moments to talk to you about that today.

22 Thirty-five years ago, we had fewer than 550 inmates in our prison system. Today, we have six  
23 times that many. In fact, South Dakota has a higher imprisonment rate than any other state in  
24 our region. Per capita we lock up 75 percent more men than North Dakota and four times as  
25 many women as Minnesota. Not surprisingly, the growth in our prison population comes with  
26 a price tag. Our general fund spending on adult corrections has more than tripled during the last  
27 20 years.

28 When I learned about South Dakota's imprisonment rate and how much higher it was, I  
29 wondered about it. It honestly surprised me. I first doubted the data. I said, "This can't be right,  
30 they must be counting differently somehow." Then when the data was proven to be comparable,  
31 I wondered, "Well, maybe our public safety is better." "More bad guys locked up - less crime,"  
32 I thought. Unfortunately, that isn't the case either. Our public safety is no better than places with  
33 lower imprisonment rates. In fact, if you look over the past ten years, 17 states have lowered  
34 their imprisonment rate. During that same time, all 17 of them also lowered their crime rates.  
35 In fact, the crime rate in those states has fallen twice as fast as the crime rates in South Dakota.  
36 Our approach isn't better.

37 If our state policy does not change, South Dakota's prison population will grow by more than  
38 900 inmates in the next decade. That's on top of the current population of about 3600 men and  
39 women - an increase of 25 percent.

1 We'll need to build a new men's prison and a new women's prison. The path we are on will cost  
2 us an additional \$224 million over the next decade, about \$100 million in increased operating  
3 costs for those two new prisons that will cost us about \$125 million. Is this the best way to  
4 spend the taxpayer's money? Is this the best way for us to improve public safety? As good  
5 stewards of our state government, it is our obligation to carefully consider these questions.

6 That is why, this past July, I joined Chief Justice Gilbertson and your legislative leadership in  
7 forming the Criminal Justice Initiative Work Group. Top criminal justice leaders and  
8 stakeholders from both parties and all three branches of government, as well as law  
9 enforcement, treatment providers, prosecutors, and defense attorneys all had seats at the table.  
10 I want to thank Speaker Gosch, Senator Bradford, Senator Tieszen, Senator Holien, Senator  
11 Lucas, and Representative Sly for their hard work as work group members.

12 The charge to this work group could not have been simpler:

- 13 1. Improve public safety.
- 14 2. Hold offenders more accountable.
- 15 3. Give us a better return on our criminal justice spending.

16 The workgroup did not have to reinvent the wheel. The 18 members themselves had more than  
17 250 years of collective legal, law enforcement, and legislative experience, and then they drew  
18 on input from more than 400 stakeholders across the state and a respected Council of Advisors.  
19 The workgroup also looked to the experiences of other states. In recent years, more than  
20 20 states, many of them very conservative states like Texas, Kentucky, and South Carolina, have  
21 undertaken what they call "justice reinvestment." Justice reinvestment focuses resources on  
22 criminal justice tools that are proven to work. It focuses resources on evidence-based practices  
23 - not based on antidotes, not based on intuition, not based on what we think will work, but  
24 which has been proven to work elsewhere, and the evidence shows works. It focuses resources  
25 on evidence based practices that have been proven in application. Other states have  
26 demonstrated that justice reinvestment works, and the workgroup unanimously embraced that  
27 concept as the foundation for its recommendations.

28 Every state is different, and the workgroup made it clear that South Dakota data and South  
29 Dakota values need to drive justice reinvestment in South Dakota. The final report of the  
30 workgroup, which legislators received last November, makes 18 recommendations, and I'd like  
31 to mention 3 of them today.

32 One of the recommendations is about alternative courts. South Dakota has fewer drug courts  
33 than any other state in the country, but the drug courts we do have produce impressive results.  
34 Fewer than 20 percent of the graduates of South Dakota drug courts and DUI courts over the  
35 last five years have committed new felonies. That is a remarkable success rate, because these  
36 offenders are repeat offenders. They are not first-time law-breakers who simply need a wake-up  
37 call. These are usually people with serious addictions to drugs or alcohol who have committed  
38 a number of crimes in recent years. Getting 80 percent of them back on the right track is a real  
39 success, and the budget I outlined for you last month contains funding for expansions of two  
40 existing alternative courts and adds two more. Drug and DUI courts may be expensive compared  
41 to routine probation, but they are a bargain compared to the costs of imprisonment. By holding

1 offenders more accountable and by giving them one more chance to avoid prison, alternative  
2 courts are changing behavior and improving public safety.

3 A second recommendation of the workgroup was to implement Hawaii's HOPE program here  
4 in South Dakota. The HOPE program is a lot like our 24/7 program, but it works with those  
5 abusing drugs, rather than alcohol. The system works because of swift and certain sanctions.  
6 Each morning, participating offenders must call into an automated drug testing hotline, which  
7 will inform them whether or not they have been selected that day to come in for a drug test.  
8 Failing to show for their drug test will trigger automatic jail time. Failing the drug test will  
9 trigger automatic jail time. Hawaii has used the HOPE program on hundreds of meth addicts,  
10 and has seen a remarkable degree of success. The offenders in HOPE have been 55 percent less  
11 likely to be arrested for a new crime. They are 72 percent less likely to use drugs. This success  
12 has led to several other similar programs across the nation - including states like Texas and  
13 Oregon - and initial results indicate that swift and certain sanctions deter crime and save  
14 correctional dollars. Here in South Dakota, we would like to begin this program with one urban  
15 pilot project and one rural pilot project. If these pilots are successful, we can implement the  
16 program statewide.

17 The final workgroup recommendation I'll discuss today deals with increased supervision of  
18 offenders within the community. More than 80 percent of those admitted to prison in South  
19 Dakota each year are convicted of non-violent crimes. I'll say that again - 80 percent of persons  
20 admitted to prison in South Dakota each year are convicted of non-violent crimes. Prison is an  
21 expensive place to change offender behavior, and studies have shown that prison is not the  
22 effective place to treat those with drug, alcohol, and mental health issues. Sanctioning those  
23 offenders in other ways will be less expensive and more effective - less expensive and more  
24 effective - than doing so in prison. For that to work, though, we need additional treatment and  
25 supervision capacity. We can't send more probationers or parolees out into the community  
26 without more court service officers and probation officers to supervise them. The workgroup  
27 recommends, and my budget proposes, funding to build that capacity. Investing those dollars  
28 today will save millions in prison costs.

29 This set of proposals - and I have just mentioned three of them - this set of proposals is not  
30 about being soft on crime. It's about being smart on crime. If implemented, the  
31 recommendations of the final report are estimated to save our state \$200 million in averted  
32 construction and operating costs over the next decade. More importantly, these  
33 recommendations will hold offenders more accountable and make our state safer. What more  
34 could we want? Save money, make offenders more accountable, and make the state safer. It's  
35 a win - win - win.

36 We aren't relying on speculation or wishful thinking either. As I mentioned, these  
37 recommendations are not based on intuition. They are not based on what we hope might work  
38 as a trial. Data matters, and the data proves that justice reinvestment has worked in states across  
39 the country. In Texas, they have saved \$2 billion and 17,000 prison beds. In Connecticut,  
40 probationer re-arrest rates have been reduced by 11 percent, and the state has been able to close  
41 one of their prisons, saving more than \$3 million a year. In Maryland, offenders under a new  
42 intense supervision program are 38 percent less likely to be arrested for new crimes. Being smart  
43 on crime works.

1 Our state faces a clear choice. Down one path, we can continue to build prisons and allow  
2 corrections to consume an ever increasing proportion of taxpayers' dollars. The alternative is to  
3 follow the path blazed by almost two dozen states across the country. A path that makes us safer  
4 and one that will save our state millions of dollars. I support that path, and I am not alone. The  
5 proposed legislation you will consider has been endorsed by the sheriffs association, endorsed  
6 by the police chiefs association, by victims' advocates, the states' attorneys association, judges,  
7 treatment providers, by the counties, by our state attorney general, by legislators, and by the  
8 Chief Justice of our Supreme Court.

9 Following the State of the State today, I will join Chief Justice Gilbertson, and legislative  
10 leaders in the Senate Chamber, as we file the South Dakota Public Safety Improvement Act.  
11 As our nation's capital continues to struggle with gridlock and partisanship, South Dakota is  
12 again going to be an example of how our government leaders can use common sense and shared  
13 values to work together.

14 I have two more proposals I'd like to talk to you about today before my closing remarks - first,  
15 about our unique opportunity to create a new state asset at Blood Run.

16 Long before white settlers came to what is now South Dakota, a number of Native American  
17 tribes gathered along a winding, wooded creek to trade, bury loved ones, and establish bonds  
18 of peace and friendship.

19 Rolling hills, broad floodplains, rock-covered burial mounds, and steep riverside bluffs mark  
20 the area, one of the oldest sites of long-term inhabitation in America.

21 In 1970, the National Park Service designated this peaceful place southeast of Sioux Falls as the  
22 Blood Run National Historic Landmark because of its significance to our shared history.

23 This year, I will propose legislation to make this site South Dakota's 13th state park. As the first  
24 new state park since 1973, this unique location will provide new educational and outdoor  
25 recreation opportunities for our citizens, and I invite you to join me in supporting this new state  
26 park.

27 The second proposal I'd like to describe is about spouses of men and women in the military.

28 I mentioned earlier my trip to Afghanistan and Kuwait. Again, seeing our troops overseas is a  
29 reminder of the sacrifices they make to protect us all. It is not just these brave men and women  
30 who make sacrifices - their families sacrifice as well. They pay a price.

31 As we know, just as we have military men and women overseas, there are other servicemen and  
32 women serving much closer to home here in South Dakota. Many of them are stationed at  
33 Ellsworth Air Force Base. My last proposal today is for these families.

34 Thirty-five percent of military spouses in the workforce are in professions that require  
35 professional licensure or certification. When a military family is transferred to our state, that

1 family should not lose earning power for an extended period while a spouse seeks licensure in  
2 South Dakota.

3 I will be proposing a professional licensure portability bill for military spouses. This bill will  
4 streamline the process so that a military spouse with a license or certificate in another state can  
5 easily transfer into South Dakota. Nearly half of our sister states have approved similar  
6 legislation, and I hope you will vote to have South Dakota join those states.

7 Before I close, I would like to visit one other topic - the fiscal situation of our federal  
8 government. I know most legislators were here last month when I spoke of this, but it bears  
9 repeating, for those of you who were not here, as well as for viewers and listeners who did not  
10 hear the budget speech. Moreover, because of last week's congressional action, I can also update  
11 you on this situation.

12 The federal government's financial situation is very significant. Federal fiscal year 2012 ended  
13 last September 30. For that year, revenue was about \$2.4 trillion. We spent about \$3.5 trillion.  
14 The deficit for the year as you can see is \$1.1 trillion. This is the graph I showed you last month  
15 showing the deficit.

16 The "sequester cuts" which were scheduled to take effect last week would have reduced federal  
17 spending by about \$120 billion a year. The cutout area on the blue bar shows how the spending  
18 would have been cut by the sequester. The cut out on the red bar shows how the cuts would have  
19 reduced the deficit.

20 Look at the size of those cuts in relation to income and expenses. The impact shown is the entire  
21 sequester, not just the part of discretionary spending, but also the military cuts as well. These  
22 so-called "drastic" cuts that everyone wanted so desperately to avoid are just a sliver of what we  
23 need to face. We couldn't even face that. We postponed those cuts until March 1. Who knows  
24 what will happen on March 1.

25 Look at the green bar. What about revenue? Another way to reduce the deficit is to increase  
26 revenue. In the months and weeks leading up to last week, there was heated partisan debate. All  
27 the Sunday news programs had partisan debate about this - raising taxes. Most of the debate  
28 surrounded whether higher incomes should be taxed at a higher rate. In the end, Congress  
29 adopted legislation, and the President signed it, that creates a higher marginal rate in 2013, the  
30 year we are in right now, for individuals earning over \$400,000 and couples earning over  
31 \$450,000. Taxes on capital gains will also be higher this year. Taxes on virtually all other  
32 income will remain at the lower levels established in 2001, 2003, and 2010. Will that solve the  
33 problem? What will that do for us? Let's take a look.

34 The increased taxes on higher incomes will reduce the deficit by \$600 billion over ten years -  
35 or about \$60 billion per year. But that's not the only tax increase. Another tax increase will  
36 impact the deficit. Three years ago, as a response to the recession, payroll taxes were  
37 temporarily reduced by two percent. That reduction expired last week. The resulting increase  
38 in payroll taxes will reduce the deficit, depending upon who you ask, by somewhere between  
39 \$95 billion and \$115 billion. I am just going to call it \$100 billion for simplicity.

1 The revenue bar has now been lengthened and the deficit bar has been shortened to show you  
2 the share of the deficit bridged by the tax changes on top of the deficit which would have been  
3 bridged by the expenses. Look at the deficit that remains. Remember - this isn't the federal debt.  
4 This is just the deficit for one year. The red bar really is shorter than it should be, and the  
5 spending bar is shorter than it should be because those cuts shown were not enacted. They were  
6 postponed to March 1. If they take place, this is what would happen.

7 Remember the analogy I used in the budget address - cut off the zeros from all these numbers.  
8 In 2012, our nation had an income - pretend it is your child - they had an income of \$24,000.  
9 They are spending \$35,000, and their credit card debt was \$163,000. Imagine that is your child.  
10 What would you think of that situation? The new tax law changes have given us a little more  
11 income - so now instead of making \$24,000, your child is making \$25,600. It's a good step, but  
12 it is still a long way from what we need to do. If all of the sequester cuts take effect on March 1,  
13 our expenses will be cut to \$33,800 per year from the \$35,000. Instead of an \$11,000 gap that  
14 your child has, they have an \$8,200 gap, if the sequester cuts take place. And that is a big "if."  
15 We have done nothing at all to reduce our credit card bill, which was \$163,000 last month, now  
16 is \$164,000 a month later. At this rate, by the end of this federal fiscal year, it will jump up to  
17 \$172,000.

18 I am not trying to be an alarmist, and I'm not telling you that I have the answer. Still, I think that,  
19 as good stewards of our state, we need to understand the scale of this problem. We need to think  
20 about what this means for our future, and what it may mean for the dependability of federal  
21 funds upon which our state, our school districts, and other local governments depend.

22 As you can see, these are challenging times for South Dakota and for our nation. Our economy  
23 continues to recover, but the federal government is placing more burdens on our state. We  
24 continue to support our troops overseas, even as here at home we faced floods, fires, and  
25 drought.

26 It isn't an easy time to be here in Pierre. I suppose it never is. But our economy is strong, our  
27 budget is balanced, and our state is structurally sound because of the good stewardship that we  
28 have shown these past two years, and even more so, because of the good stewardship of dozens  
29 of governors and thousands of legislators who have come before us.

30 We have not forgotten that this government belongs to the people. We have remembered our  
31 South Dakota values of self-reliance, persistence, and frugality. We have shown our nation that  
32 good stewardship, strong values, and a little common sense can lead to a stronger budget, a  
33 stronger economy, and a stronger South Dakota.

34 That's why I'm optimistic about our future. I know that in South Dakota, we have always done  
35 what it takes to overcome adversity and emerge into greater prosperity.

36 Let's be good stewards this session. Let's be courageous and creative in finding solutions, while  
37 showing great respect to our colleagues and our constituents. Let's get to work.